INSTITUTE OF LAW RESEARCH AND REFORM

EDMONTON, ALBERTA

# ANNUAL REPORT 1983-1984

July 1984

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# INSTITUTE OF LAW RESEARCH AND REFORM

EDMONTON, Alberta

## ANNUAL REPORT

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The Institute of Law Research and Reform was established by the Law Society of Alberta, the Government of Alberta, and the University of Alberta for the purposes of law research and reform. It is funded by the Government of Alberta, the University of Alberta and the Alberta Law Foundation.

The members of the Board of Directors during the reporting year were:

W.E. Wilson, Q.C.
Chairman

W.F. Bowker, Q.C.
Director Emeritus

J.W. Beames, Q.C.

C.W Dalton
(from 1 March 1984)

G.C. Field, Q.C.

E.J.F. Gamache, Q.C.
(to 28 February 1984)

W.H. Hurlburt, Q.C.

Professor L.C. Leitch

Professor J.C. Levy

Professor Thomas W. Mapp

D.B. Mason, Q.C.

Professor R.S. Nozick

R.W. Paton

The Institute's Counsel were:

W.H. Hurlburt, Q.C.
Director

Professor C.R.B. Dunlop

B. Edmeades

G.C. Field, Q.C.

R.G. Hammond

Professor Thomas W. Mapp

Margaret A. Shone

E.J.F. Gamache, who was a member of the Board of Directors from February, 1979, to February, 1984, was a part-time consultant to the Institute during the latter part of the report year.

The Institute's offices are located at 402 Law Centre, University of Alberta, Edmonton, Alberta T6G 2H5. Its telephone number is 432-5291.

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# INSTITUTE OF LAW RESEARCH AND REFORM

## EDMONTON, ALBERTA

## ANNUAL REPORT

## 1 July 1983 - 30 June 1984

## INTRODUCTION

In September 1973 the Institute published a Five-Year Report covering the period from 1 January 1968, when the Institute came into existence, to 30 June 1973. We have since issued Annual Reports to 30 June in each year. This Report covers the twelve-month period from 1 July 1983 to 30 June 1984.

The Institute was created in the fall of 1967 by an Agreement between the Government of Alberta, the University of Alberta and the Law Society of Alberta. The Institute's history is summarized in Appendix A. Its objects are:

(a) to conduct and direct research into law and the administration of justice;

(b) to consider matters of law reform with a view to proposing to appropriate authority the means by which the law may be made more useful and effective;

(c) to promote law research and reform; and

(d) to these ends, to work in co-operation with the Faculty of Law of the University of Alberta, the Faculty of Law of the University of Calgary, and with others.

The funding of the Institute is provided by the Government of Alberta, the Alberta Law Foundation, and the University of Alberta. The University contributes a fixed annual amount. Of the remainder of the Institute's approved budget, the Foundation pays 60% and the Attorney General 40%. Discussions about these contributions are in progress because of recent reductions in the Foundation's income.

The Alberta Law Foundation is a corporate body created by the Legal Profession Act. It is set up to receive interest paid on lawyers' trust accounts where it is not practicable to attribute the interest to the money of specific clients. The Foundation is empowered to distribute the money for the objects set out in the Legal Profession Act, one of which is law research and reform. The Institute gratefully acknowledges the very substantial assistance which it receives from the Foundation.

## COMPARISON TO LAW REFORM COMMISSIONS

The Institute functions like a provincial law reform commission. It was, however, created by agreement and not by statute. It selects its own reform projects, though in doing so it is attentive to the views of the Government of Alberta. Over the years it has undertaken many reform projects in response to suggestions of the Attorney General and other cabinet ministers, and one project emanated from a resolution of the Legislature.

The Institute has the additional object of encouraging and carrying out legal research apart from that leading to law reform.

## PERSONNEL

The Board of Directors of the Institute is similar to, although larger than, most of the statutory law reform commissions. It now has twelve members. It ordinarily meets for a full day twice each month. Its members are lawyers, though Professor L.C. Leitch, Vice-President (Finance and Administration) is a member as the designate of the President of the University of Alberta. His role is to provide liaison with the University. He does not attend most meetings of the Board and he is not responsible for the contents of our reports.

Three of the Board's members, the Director and the two Associate Directors, serve full time. The Director and one Associate Director hold academic appointments as Professors of Law. Five members are appointed by the parties to the founding agreement: a nominee of the Alberta Law Society, at the present time an Edmonton practitioner; a nominee of the President of the University of Alberta; a nominee the Faculty of Law of the University of Alberta; and two nominees of the Attorney General. These five members and the Director appoint the other members of the Board except for one who is appointed by the Faculty of Law of the University of Calgary. At the present time the members appointed at large consist of the two Associate Directors, the Institute's Director Emeritus, a Calgary practitioner and an Edmonton practitioner. The names, standing, and duration of office of Board members, past and present, are listed in Appendix B.

Our legal staff during the year consisted of seven counsel, a reduction from the previous report year. The reduction reflects caution in replacing personnel in difficult financial

times; it also reflects a feeling in favor of a somewhat higher proportion of the Institute's work being done by outside consultants.

The designation "counsel" is intended to convey a proper estimation of the full range of functions and responsibilities which every member of our legal staff performs: analyzing existing legal concepts; formulating new legal concepts; identifying and debating policy issues; writing consultative documents and reports; engaging in the consultative process with members of the public, lawyers, interest groups and government officials at all levels; and drafting legislation.

## FINAL REPORTS ISSUED IN 1983-84

### Report No. 39--Defences to Provincial Charges

The Institute issued Report No. 39, Defences to Provincial Charges, in March 1984. In it we recommend that the exercise of due diligence be a defence to a charge of an offence under provincial legislation, unless the legislation specifically says otherwise, thus clarifying the present classification of "mens rea offences", "strict liability offences" and "absolute liability offences". We also recommend the introduction of a new defence of officially induced error in cases of reliance on judicial decisions or appropriate official advice. Our recommendations would preclude prosecutions under unpublished regulations and bylaws unless such a prosecution is specifically provided for and reasonable steps have been taken to notify affected persons. The Report would leave for judicial development the defences of accident, automatism, compulsion, necessity, entrapment, impossibility, triviality, obedience to

authority and other common law excuses or justifications. It would, for the protection of the accused, abolish the defence of insanity.

## Report No. 40--Judicial Review of Administrative Action: Application for Judicial Review

Our Report No. 40, Judicial Review of Administrative Action: Application for Judicial Review, was also issued in March 1984. In it we recommend the introduction of one simple procedure in which the claimant can obtain any and all of the judicial review remedies to which he is legally entitled. The new procedure would be substituted for the two, and sometimes three, procedures from which the claimant must chose under the existing law. It would be implemented by amendment to the Alberta Rules of Court, and validated by amendment to section 47 of the Judicature Act. Although the proposal relates almost entirely to procedure, it would extend certain of the court's powers as well.

## Report No. 41--Compensation for Security Interests in Expropriated Land

The Institute issued Report 41, Compensation for Security Interests in Expropriated Land, in May 1984. In it, we recommend that the compensation for the holder of a security interest in expropriated land should be the outstanding balance secured by the security interest at the effective date of the expropriation. The compensation, which would not exceed the market value of the expropriated land, would be deducted from the compensation payable to the owner of the land. This measure of compensation would be substituted for the existing measure under which the holder of the security interest is paid the market value of the

landowner's interest.

Report No. 42--Debt Collection Practices

Our Report No. 42 on Debt Collection Practices was completed and deposited for printing in June 1984. In it we recommend the enactment of some simple and salutary rules of conduct for those engaged in debt collection. The recommendations cover some criminal and deceitful conduct, frequency of telephone or personal calls which would constitute "abuse" or "oppression", threats of unauthorized action, and pressure through the debtor's employer. Under the recommendations, debt collection agencies would be required to inform the debtor of the names of the collector, the agency and the creditor. Clear rules would replace the present undefined administrative discretion. The present rather onerous system of annual "prior vetting" of forms of collection letters would be done away with.

## REPORTS FOR DISCUSSION ISSUED IN 1983-84

The Institute now characterizes its published documents, other than its Annual Reports, as final reports, reports for discussion and research papers. The category "Report for Discussion" will include any document which is published for the purpose of consultation and replaces the working paper and some other categories of documents which the Institute has issued in the past. We hope that the new nomenclature will be comprehensible and will enable Institute documents to be classified in a more orderly manner.

## Report for Discussion No. 1--Protection of Trade Secrets

In February, 1984, the Institute issued its Report for Discussion No. 1, Protection of Trade Secrets, as part of its project on Trade Secrets, which is mentioned below at page 10. The report suggests that some form of protection should be given to the holder of confidential business information, and that the protection should be given through the creation of a statutory tort of misappropriation of a trade secret. It discusses at length the proposals of the Law Commission for England and Wales about the broader subject of breach of confidence and various American proposals about trade secrets.

The report puts forward, in the form of draft legislation, two models. Under one, the tort would consist of the acquisition or disclosure of a trade secret without authority or consent. Under the other the tort would consist of the misappropriation of a trade secret by improper means. It also puts forward alternative defintions of "trade secret". It goes on to suggest a defence based on public interest, and a range of remedies from which the court could select those which are appropriate. These would include the usual remedies in tort and also broader powers of financial adjustment between the wrongdoer and the victim.

## CURRENT LAW REFORM PROJECTS

### (1) Creditors' Remedies for Unsecured Debts

As we have already mentioned, the Institute issued Report No. 42, Debt Collection Practices, which is part of its project on Creditors' Remedies for Unsecured Debts. Substantial work was done on the balance of this project, and will continue during the

forthcoming year.

(2) Family Law

To date we have published six reports on family law: Report No.16--Matrimonial Property (August 1975); Report No. 20--Status of Children (June 1976); Report No. 25--Family Law Administration: The Unified Family Court (April 1978); Report No. 26--Family Law Administration: Court Services (April 1978); Report No. 27--Matrimonial Support (March 1978); and Report No. 29--Family Relief (June 1978). During the current year work proceeded on the topics set out below.

(a) Representation of Children in Legal Proceedings

The Institute's work is virtually complete and we expect to issue a report during the forthcoming year.

(b) Living Together Outside Marriage

The empirical study referred to in our last Annual Report was conducted by T.D. Weiden & Associates Ltd. Dr. Weiden's compilation of the results of the study, called "A Survey of Adult Living Arrangements", is nearly finished. We hope to engage in consultation during the forthcoming year.

(c) Administration of the Estates of Children

Further work on this project has been delayed until our resources permit.

(3) Freedom of Information and Confidentiality of Government Documents

This project has remained in abeyance throughout the report year.

(4) Judicial Review of Administrative Action

During the report year the Institute issued Report No. 40, Judicial Review of Administrative Action: Application for Judicial Review, recommending a single procedure to obtain prerogative or non-prerogative relief. Work on the reform of the substantive law of judicial review is in progress.

(5) Labour-Management Relations

We hope that this project will be completed during the forthcoming year.

(6) Land Titles

This project was not advanced during the report year due to lack of staff time. We hope to proceed with it during the forthcoming year.

(7) Limitation of Actions

This project was not advanced during the report year due to lack of staff time. We hope to proceed with it during the forthcoming year.

(8) Not-for-profit Corporations

Additional work was done during the report year. The subject has proved difficult. We hope to issue a report or reports for discussion during the forthcoming year.

(9) Real Property Securities

Work on this project was interrupted due to the departure from legal staff of Professor Allison Dunham who had done much work on the subject. It is only now that we have been able to

divert staff resources to it. We hope to issue a report for discussion during the forthcoming year.

(10) Statute of Frauds

Our work on this subject is virtually complete and we hope to issue a final report soon.

(11) Sterilization of Minors and Mentally Incompetent Adults

Last year we reported that we had suspended work on this project pending the hearing of Re Eve in the Supreme Court of Canada. That hearing is still pending. We have nevertheless decided to proceed with the project, and a report for discussion is in preparation.

(12) Survivorship

As noted in our last Annual Report, Professor M. Litman of the Faculty of Law, University of Alberta, has agreed to examine the existing Alberta Survivorship Act and the recent reports of the British Columbia and Manitoba Law Reform Commissions on the subject. He is about to commence work.

(13) Trade Secrets

In 1983 Institute counsel, at the request of the Federal Department of Justice, prepared a paper reviewing the general subject of confidential commercial information in its criminal and civil aspects. This paper was part of the material before the Sub-committee on Computer Crime of the House of Commons Standing Committee on Justice and Legal Affairs. Among other things, the Sub-committee recommended that the federal and provincial governments undertake a comprehensive joint study of

trade secrecy law and adopt corrective measures. The Deputy Attorneys General then decided to establish a joint federal/provincial working party on the subject, of which the Director is Chairman and R.G. Hammond of Institute counsel is a member. In the meantime, the Institute has issued its Report for Discussion No. 1 which is described above at page 7.

## THE INSTITUTE'S RESEARCH FUNCTION

Previous reports have described the empirical research study we commissioned on the profiles, perceptions and motivations of individuals involved in matrimonial and child support, and the international invitational conference we convened to discuss the findings. Following the conference, the Institute commissioned Professor Julien D. Payne, Q.C., Faculty of Law, University of Ottawa, to assess the current situation and make suggestions for improvement of the system. Professor Payne submitted his paper, entitled "Income Support Systems for Family Dependants on Marriage Breakdown: An Examination of Fundamental Policy Questions", in June 1982. The Institute made his paper available to the government and to individuals interested in the subject.

## PUBLICATIONS AND PRESENTATIONS

Closely related to our research function is the presentation and publication of learned papers by members of our legal staff. Contributions of this nature are often prompted by work on law reform projects although they may not be directly connected with them.

During the report year, Professor Dunlop completed his supplement to Creditor-Debtor Law in Canada (Carswell, 1981). It

is now in press. He also published an annotation on Westhill Leasing Corp. Ltd. v. Rideout (1983) 25 Alta. L.R. (2d) 229, and participated as a commentator on a paper at a conference on socio-legal perspectives on debtors and creditors held 13-14 September 1983 in Newcastle Upon Tyne, England.

Mr. Hammond published three articles: "Theft of Information" (1984) 100 L.Q.R. 252; "The Alberta Experience of Law Reform" (1983) N.Z.L.J. 152; and "Interest on Solicitors' Trust Accounts" (1983) N.Z.L.J. 26. Another article, "Embedding Policy Statements in Statutes: A Comparative Perspective on the Genesis of a New Public Law Jurisprudence" (1982) 5 Hastings Int'l & Comp. Law Rev. 323, was published last year. Mr. Hammond also gave three addresses: "Freedom of Information: A Comparative Perspective" (N.Z. Law Conference, Rotorua, N.Z., April 1984); "The Common Law Sea and the Statutory Island: Have the Elements Yet Met?" (Canadian Association of Law Teachers, University of Toronto, May 1984); and "Prejudgment Remedies" (LESA Seminar, Edmonton and Calgary, October 1983).

Mrs. Shone gave a presentation on the Institute's recommendations for Judicial Review of Administrative Action: Application for Judicial Review (Report No. 40) at a LESA Seminar held in Edmonton 31 March 1984. She also served as a member of the Task Force to Review the Mental Health Act (the "Dreury Task Force" appointed by the Minister of Social Services and Community Health in January 1982), and assumed a principal role in the supervision of research and writing of the Task Force Report which was submitted to the Minister on 2 December 1983.

## THE INSTITUTE'S RELATIONS WITH THE UNIVERSITIES OF ALBERTA AND CALGARY AND THEIR FACULTIES OF LAW

The University of Alberta, as one of the Institute's founding bodies, contributes to the annual budget. In addition, several years ago the University earmarked for the Institute a gift of $25,000 from a private donor to be used for the purchase of books. This gift has enabled us to build up a useful library, and is still partly unexpended.

The University of Alberta also makes very substantial contributions in other ways. It provides fine quarters in the Law Centre. It handles the Institute's funds, and the Comptroller pays all accounts so the Institute is relieved of doing its own bookkeeping and writing its own cheques.

The main liaison with the University administration is through the Vice-President (Finance and Administration) who, as the designate of the President of the University, is a member of the Institute's Board, who attends meetings of the Board. whenever matters affecting the Institute's relations with the University are on the agenda and who is always available for consultation. The Faculty of Law of the University of Alberta also designates one of its members to serve on our Board. Professor R.S. Nozick currently holds this position.

Over the years we have received much assistance on our law reform projects from members of the Faculty of Law at the University of Alberta and we have every reason to believe that this happy situation will continue in the future. During the report year, the issue of Report No. 39 marked the completion by Professor J.C. Robb of his work on the defences available to

charges under provincial statutes. Professor M.M. Litman has been retained to prepare a report on survivorship. Professor P.J. Lown has been retained to advise about the law relating to persons living together outside marriage. Professor D.P. Jones continued to serve as consultant to our project on judicial review of administrative action.

In 1982 the University entered into a more formal arrangement with the Institute. The Institute will hire a member of the Faculty of Law on a full-time basis (or the equivalent in part-time services) as a continuing program. The Faculty member will transfer to the Institute on either a full-time or half-time basis for one or two years, depending on the needs of the Institute and the wishes of the faculty member. Professor C.R.B. Dunlop joined us under the arrangement on 1 January 1983, for a two year period, which has now been extended for a further seven months to 31 July 1985. Because this program would otherwise reduce the law school teaching staff by one full time member, the University granted to the Faculty an additional faculty position.

We believe that this secondment program benefits both the Institute and the Faculty of Law. A law reform project can often be accomplished more efficiently and more competently by an academic with extensive knowledge of the subject area. Under this program the Institute can "fish in the law faculty pond" and hire academics for limited periods of time to undertake specific projects. At varying times in their careers, many law professors would like a respite from their teaching loads and an opportunity to concentrate their efforts on a research, analysis and a writing project which can lead to law reform. The Institute can now provide that opportunity.

Customarily, some of our counsel give courses in the Faculty of Law. This year G.C. Field taught company law; R.G. Hammond taught trusts; and M.A. Shone taught law and psychiatry. Professor Mapp gave a three-hour series of lectures on landlord and tenant law to three property sections of the first year class.

Our relationship with the University of Calgary since the inception of its Faculty of Law has been a matter of satisfaction to us as well. The Agreement continuing the Institute entered into on 31 March 1982 made formal provision for the inclusion of a member of the Faculty of Law of the University of Calgary on our Board; a member had been included since the inception of the Faculty. Professor J.C. Levy holds the current appointment.

We have been the fortunate recipient of the assistance of members of other Faculties at the University of Calgary. Professor Gayle C. James and Dr. R. Nutter of the Faculty of Social Welfare continued to serve on the interdisciplinary committee responsible for steering the empirical work on living together outside marriage.

For the summer of 1984 we have employed six students from the Faculty of Law, University of Alberta. They are: Dale Anderson, Martin Chamberlain, David Cichy, John Craig, Terry Kuharchuk and John MacGillivray. These students are doing valuable work for us in connection with various projects.

## THE INSTITUTE'S RELATIONS WITH THE PRACTISING BAR AND BENCH OF ALBERTA

The Institute strives to maintain a close connection with the legal profession and Bench in the province. The Law Society

is, of course, one of our constituting bodies and we send copies of our final reports and published consultative documents to the Benchers of the Law Society and, in many cases, to every law firm in the province. We also distribute our publications to superior court judges as a matter of course, and to judges of the Provincial Court where the subject matter is likely to be of interest to them. In reply we have received many valuable comments and suggestions from lawyers and judges.

The Bench have given us much help in one or another of our law reform projects. Mr. Justice S.S. Lieberman of the Court of Appeal and Mr. Justice D.C. McDonald of the Court of Queen's Bench, as designates of their respective Chief Justices, provided helpful liaison with the Institute project on judicial review of administrative action. The Rules of Court Committee, under the chairmanship of Mr. Justice W.A. Stevenson, has been very helpful whenever our work involves a consideration of the Alberta Rules of Court. The Bar have also given us much help.

For our part, we are happy to share with the profession information concerning our projects and to impart the knowledge which we have acquired while working on them.

## THE INSTITUTE'S RELATIONS WITH OTHER LAW REFORM BODIES

Director W.H. Hurlburt and Associate Director Thomas W. Mapp attended the annual meeting of representatives of Canadian Law Reform bodies held at Quebec City on 21 August 1983. As has become the custom, this useful opportunity for exchange on matters of common concern preceded the meeting of the Uniform Law Conference of Canada held from 21-26 August, which Mr. Hurlburt and Professor Mapp also attended. Our Director is an Alberta

Commissioner and, as such, regularly attends the annual meetings of the Conference.

Over the years members of our Board have frequently been Alberta Commissioners. Various members of our legal staff have also regularly attended the meetings of the Conference, and contributed to the work of the Conference as individuals. For example, during the report year Professor Mapp prepared a draft "Uniform Intestate Succession Act", with extensive comments, for consideration by the Uniform Law Conference at its Quebec City meeting. The Conference accepted most of the draft Act as submitted, and Professor Mapp and Mr. Peter Pagano, the Chief Legislative Counsel of Alberta, have prepared a revised draft Act reflecting decisions of the Conference for consideration at its meeting in Calgary in August 1984.

In recent years the Institute has frequently supported the Uniform Law Conference on a more formal basis. For example, members of the Institute's legal staff served on the Conference Committees which drafted the Uniform Evidence Act and the Uniform Sale of Goods Act. At its 1982 annual meeting the Conference authorized the appointment of a committee to prepare a further report on the Uniform Products Liability Act, which it has now done. Two members of our legal staff, G.C. Field and Baz Edmeades, served on this committee. The other members of the committee were representatives of the Law Reform Commissions of Ontario, Manitoba and Saskatchewan.

Because the Conference is often working on law reform projects which either are or may in the future be of interest to the Institute, the cooperation between the Conference and the Institute is mutually beneficial.

## THE INSTITUTE'S RELATIONS WITH THE LEGISLATURE AND THE GOVERNMENT

The Attorney General is one of the founding members of the Institute, and the Institute looks to him as its principal contact with the Executive Branch of the Government. In particular, requests from the Government to the Institute to undertake a study come through the Attorney General. Of course, the Institute has over the years enjoyed very fruitful associations with other Ministers and Departments, the most extensive of these associations having been with the Department of Social Services and Community Health and the Department of Consumer and Corporate Affairs. In addition, Institute representatives have appeared before committees of Cabinet and caucus in connection with Institute reports under consideration.

Although the Institute sends its reports to the Members of the Legislative Assembly, and although its reports are frequently referred to in the debate of the Legislative Assembly, it has not had direct communication with the Legislative Assembly itself. The Legislative Assembly at the last session, however, adopted a resolution that the Standing Committee of the Legislative Assembly on Law and Regulations take under consideration, in general terms, the reports issued by the Institute and report to the Legislative Assembly as to which of the reports of the Institute the Committee recommends be referred to it for detailed study. The resolution was introduced by the Attorney General

following a meeting between the Standing Committee and representatives of the Institute, and the general expectation appears to be that some Institute reports will be hereafter referred to the Standing Committee for consideration. We regard the resolution as a very useful proposal for bringing forward the Institute's work, and we look forward to meeting the Standing Committee.

## ACKNOWLEDGMENTS

We continue to enjoy a happy relationship with the Attorney General, the Honourable Neil S. Crawford, Q.C. It is our custom to meet with him annually and we find the opportunity for exchange beneficial. We also appreciate the fine relationship which we maintain with the Acting Deputy Attorney General and other Departmental officials upon whose good services we frequently call.

Our legal staff are an integral part of our operation and the high quality of their work is a crucial component of our success as an Institute. We extend sincere thanks to our counsel for the outstanding work performed by each and every one.

We are perennially grateful to our secretarial staff whose efficient execution of their heavy workload, amid the distraction of learning the techniques of our new word processors, has been performed cheerfully and willingly. We thank them for their

considerable contribution to our work.

W.E. WILSON
W.F. BOWKER
J.W. BEAMES
C.W. DALTON
G.C. FIELD
W.H. HURLBURT
J.C. LEVY
T.W. MAPP
D.B. MASON
R.S. NOZICK
R.M. PATON

CHAIRMAN

DIRECTOR

July 1984

## APPENDIX A

## HISTORY OF THE INSTITUTE

In 1964 the Benchers of the Law Society of Alberta established the Law Reform Committee. It had fourteen members selected from the judiciary, the profession and the Faculty of Law of the University of Alberta. It had no full time members, no staff and no funds. This Committee made one major set of recommendations in connection with limitation of actions in tort. These recommendations were enacted as Part 9 of the Limitations Act (S.A. 1966, c. 49). The Committee also passed on to the Government two or three Acts recommended elsewhere, notably personal property security, survival of actions, and perpetuities. These Acts were not passed. Before long both the Benchers and the Committee concluded that as constituted the Committee could not operate effectively as a law reform agency. The Benchers proposed a more formal and permanent research body to be located in the University of Alberta. Both the provincial government and the University welcomed the proposal. The details were worked out during 1967 and on 15 November of that year an Agreement was signed by the three parties. It was the first of a succession of Agreements to form the Institute's "constitution".

The original Agreement covered the period from 1 January 1968 to 31 March 1973. It was amended on 30 August 1971 to extend the period to 31 March 1977.

The 1971 Agreement was the last one entered into during the first stage of funding of the Institute. Until 1973 the funding was provided entirely by the Government of Alberta and the University of Alberta in fixed annual amounts. In that year the Alberta Law Foundation agreed to make substantial grants for the next five years, and those grants together with the contributions of the Government and the University funded the Institute until 31 March 1976. On 1 April 1976 the previous arrangement was superseded by the next one which provided, after deduction of the University's contribution, for the sharing of the Institute's approved budget between the Foundation as to 60% and the Attorney General as to 40%, except during the 1976-1977 fiscal year when the Foundation's proportion was higher.

The commencement of funding by the Foundation in 1974 made it possible to increase the Institute's staff and raise the level of its activity. The 1976 arrangement, which continued in force until 31 March 1982 under the Agreement of 31 March 1977, provided for further staff increases. The subsisting Agreement, entered into 31 March 1982, continues the Institute under the same funding arrangement for a further five years to 31 March 1987. This Agreement enlarged the size of the Board of Directors and introduced changes in its composition.

The Institute has always been housed on the University of Alberta campus. In 1968, it opened a very modest office in the Faculty of Law with Dean Wilbur Bowker as its director and only member of legal staff. Four and a half years later, after a period of time spent in that and other offices, it took up its present quarters in the Law Centre. During the period of time intervening since 1968, its staff has grown to the present capacity for seven lawyers and a variety of support staff.

## APPENDIX B

## LIST OF BOARD MEMBERS

### Present Members

J.W. Beames, Q.C.
Member at large - August 1979 to present

W.F. Bowker, Q.C.
Director - January 1968 to August 1975
Director Emeritus - September 1975 to present

C. W. Dalton
Attorney General's nominee - March 1984 to present

G.C. Field, Q.C.
Member at large - April 1981 to present

W.H. Hurlburt, Q.C.
Law Society nominee - November 1967 to January 1970
Member at large - February 1970 to January 1971
Law Society nominee and Chairman - February 1971 to December 1973
Member at large and Associate Director - January 1974 to August 1975
Director - September 1975 to present

Professor L.C. Leitch
University of Alberta nominee (Vice-President (Finance and Administration)) - February 1980 to present

Professor J.C.Levy
University of Calgary Faculty of Law nominee - December 1981 to present.

J.W. Mapp
Member at large - April 1981 to present

D.B. Mason, Q.C.
Member at large - February 1979 to present

Professor R.S. Nozick
University of Alberta Faculty of Law nominee - March 1983 to present

R.M. Paton
Attorney General's nominee - May 1982 to present

W.E. Wilson, Q.C.
Law Society nominee - June 1976 to present

### Former Members

G.W. Acorn, Q.C.
Attorney General's nominee - November 1967 to January 1969

Professor D. Trevor Anderson
University of Alberta Faculty of Law nominee - November 1967 to June 1971

Margaret Donnelly
Attorney General's nominee - June 1976 to February 1979

Professor C.R.B. Dunlop
University of Alberta Faculty of Law nominee -September 1981 to December 1982

H.G. Field, Q.C.
Law Society nominee and Chairman - November 1967 to February 1971

R.P. Fraser, Q.C.
Member at large - June 1970 to January 1976
Law Society nominee - January 1976 to February 1979

Dean G.H.L.Fridman
Member at large (University of Alberta Faculty of Law) - February 1971 to June 1975

S.A. Friedman, Q.C.
Attorney General's nominee - November 1967 to November 1970

E.J.F. Gamache, Q.C.
Attorney General's nominee - February 1979 to February 1984

J.E. Hart, Q.C.
Attorney General's nominee - November 1967 to January 1969

Wm. Henkel, Q.C.
Attorney General's nominee - December 1970 to June 1976

Professor R.G. Hopp
University of Alberta Faculty of Law nominee - August 1979 to September 1981

Dr. M. Horowitz
University of Alberta nominee (Vice-President (Academic)) - July 1975 to July 1979

Professor Constance D. Hunt
Member at large (University of Calgary Faculty of Law) July 1980 to June 1981

Dr. Henry Kreisel
University of Alberta nominee (Vice-President (Academic)) - September 1970 to June 1975

Professor F.A. Laux
University of Alberta Faculty of Law nominee - September 1972 to May 1976

Professor P. Lown
University of Alberta Faculty of Law nominee - January 1983 to February 1983

Dr. A.G. McCalla
University of Alberta nominee (Vice-President (Academic)) - November 1969 to May 1970

Dean J.P.S. McLaren
Member at large (University of Calgary Faculty of Law) -

January 1976 to June 1980

Robert R. Neve (deceased)
Member at large - April 1970 to May 1970

J.S. Palmer
Law Society nominee - November 1967 to February 1970

Professor Julien D. Payne
University of Alberta Faculty of Law nominee - July 1971 to June 1972

Professor Ellen Picard
Member at large - June 1975 to December 1975
University of Alberta Faculty of Law nominee - May 1976 to July 1979

Justice W.A. Stevenson
University of Alberta Faculty of Law nominee - August 1969 to January 1970
Member at large - February 1970 to December 1973
Law Society nominee and Chairman - January 1974 to January 1976
Member at large and Chairman - January 1976 to July 1979

Dr. A.R. Thompson
University of Alberta Faculty of Law nominee - November 1967 to June 1969

Dr. Max Wyman
University of Alberta nominee (Vice-President (Academic)) - November 1967 to March 1969

## APPENDIX C

## RECORD OF LEGISLATION BASED ON INSTITUTE'S RECOMMENDATIONS

| Formal Report - Number and Title | Legislation |
|---|---|
| No. 1--Compensation for Victims of Crime (1968) | Criminal Injuries Compensation Act, R.S.A. 1970, c. 75 (now R.S.A. 1980, c. C-33, am. by S.A. 1982, c. 14) |
| No. 2--Powers of Personal Representatives to Grant Options (June 1969) | Wills Act, R.S.A. 1970, c. 393, s. 30 (now R.S.A. 1980, c. W-11, s.30) Devolution of Real Property Act, R.S.A. 1970, c. 109, s. 13 (now R.S.A. 1980, c. D-34, s. 12) |
| No. 3--Occupiers' Liability (December 1969) | Occupiers' Liability Act, S.A. 1973, c. 79 (now R.S.A. 1980, c. O-3) |
| No. 4--Age of Majority (January 1970) | Age of Majority Act, S.A. 1971, c. 1 (now R.S.A. 1980, c. A-4) |
| No. 5--Guarantees Acknowledgment Act, R.S.A. 1970, c. 173 (October 1970) | Principal recommendation for retention of Guarantees Acknowledgment Act (now R.S.A. 1980, c. G-12) accepted. Recommendations for incidental amendments not acted upon. |
| No. 6--Rule Against Perpetuities (August 1971) | Perpetuities Act, S.A. 1972, c. 131 (now R.S.A. 1980, c. P-4) |
| No. 7--Joinder of Divorce Proceedings with other Causes of Action (August 1971) | Alberta Rules of Court, Rule 563(3), Alta. Reg. 315/71 |
| No. 8--Assignment of Wages (October 1971) | Wage Assignments Act, S.A. 1972, c. 61 (now R.S.A. 1980, c. W-1) |
| No. 9--Rule in Saunders v. Vautier (February 1972) | S.A. 1973, c. 13, s. 12 amending the Trustee Act, R.S.A. 1970, c. 373, s. 37 (now R.S.A. 1980 c. T-10, s. 42) |

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| No. 10--Powers of Maintenance and Advancement (June 1972) | S.A. 1974, c. 65, s. 9 amending the Trustee Act, R.S.A. 1970, c. 373, ss. 31-33 (now R.S.A. 1980, c. T-10, ss. 32, 34, 35, 36(3), 37) |
| No. 11--Common Promisor and Promisee: Conveyances with a Common Party (October 1972) | Common Parties Contracts and Conveyances Act, S.A. 1974, c. 20 amended 1975, c. 5 (2 sess.) (now Law of Property Act, R.S.A. 1980, c. L-8, ss. 10-13; Land Titles Act, R.S.A. 1980, c. L-5, ss. 71, 72, 119) |
| No. 12--Expropriation (March 1973) | Expropriation Act, S.A. 1974, c. 27 (now R.S.A. 1980, c. E-16) |
| No. 13--Judicature Act, Section 24 (August 1974) | S.A. 1974, c. 65, s. 9 striking out s. 24 of the Judicature Act, R.S.A. 1970, c. 193 |
| No. 14--Minors' Contracts (January 1975) | |
| No. 15--Validity of Rules of Court (December 1974) | S.A. 1976, c. 58, s. 6(4) amending the Judicature Act, R.S.A. 1970, c. 193, s. 39 (now R.S.A. 1980, c. J-1, s. 47) |
| No. 16--Rule in Hollington v. Hewthorn (February 1975) | S.A. 1976, c. 57, s. 1 amending the Alberta Evidence Act, R.S.A. 1970, c. 127, s. 27 (now R.S.A. 1980, c. A-21, s. 27) |
| No. 17--Small Projects (June 1975) | S.A. 1976, c. 55, s. 2 amending the Workers' Compensation Act, S.A. 1973, c. 87, s. 15 (now R.S.A. 1980, c. W-15, s. 15); S.A. 1976, c. 58, s. 3 amending the Bulk Sales Act, R.S.A. 1970, c. 37 (now R.S.A. 1980, c. B-13, ss. 1(f), (j), 4(2), 6(b), 7, 14) |

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| No. 18--Matrimonial Property (August 1975) | Matrimonial Property Act, S.A. 1978, c. 22 (now R.S.A. 1980, c. M-9), enacting a combination of the majority and minority proposals for the distribution of matrimonial property, and an extension of the recommendations on possession of the matrimonial home |
| No. 19--Consent of Minors to Health Care (December 1975) | |
| No. 20--Status of Children (June 1976) | |
| No. 21--Purchase by a Company of Shares Which It Has Issued 1January 1977) | S.A. 1977, c. 13, s. 2 amending the Companies Act, R.S.A. 1970, c. 60, s. 41 (reenacted as R.S.A. 1980, c. C-20, ss. 42-49, 51-54, then superseded by S.A. 1981, c. B-15, ss. 32 and 33: see Report No. 36) |
| No. 22--Residential Tenancies (February 1977) | Landlord and Tenant Act, 1979, S.A. 1979, c. 17 (now R.S.A. 1980, c. L-6), based in large part on our recommendations |
| No. 23--Partition and Sale (March 1977) | Partition and Sale Act, S.A. 1979, c. 59 (now Law of Property Act, R.S.A. 1980, c. L-8, ss. 14-19, 20-34) |
| No. 24--Survival of Actions and Fatal Accidents Act Amendment (April 1977) | Survival of Actions Act, S.A. 1978, c. 35 (now R.S.A. 1980, c. S-30; Fatal Accidents Act R.S.A. 1980, c. F-5, ss. 5(2)(a), (b), 8; and Limitation of Actions Act R.S.A. 1980, c. L-5, s. 53) |
| No. 25--Family Law Administration: the Unified Family Court (April 1978) | |
| No. 26--Family Law Administration: Court Services (April 1978) | Some recommendations carried out by administrative action. |

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| No. 27--Matrimonial Support (March 1978) | S.A. 1977, c. 64 amending Part 4 of the Domestic Relations Act, R.S.A. 1970, c. 113 (now R.S.A. 1980, c. D-37, ss. 26, 27(1)-(8), 28(1), (4), (6), 29-35, 37, 39); S.A. 1977, c. 92 amending the Social Development Act, R.S.A. 1970, c. 345 (now R.S.A. 1980, c. S-16, ss. 14, 15); S.A. 1978, c. 49, s. 2 amending the Debtors' Assistance Act, R.S.A. 1970, c. 86 (now R.S.A. 1980, c. D-5, ss. 3(2), 3(3), 4(e)-(f), 6) (The above amendments deal with the enforcement of support orders and are based on recommendations made in conjunction with a government committee. Recommendations pertaining to the principles upon which support is awarded have not been acted on to date.) |
| No. 28--Tenancies of Mobile Home Sites (April 1978) | Mobile Home Sites Tenancies Act, S.A. 1982, c. M-18.5 |
| No. 29--Family Relief (June 1978) | |
| No. 30--The Builders' Lien Act: Certain Specific Problems (March 1979) | |
| No. 31--Contributory Negligence and Concurrent Wrongdoers (April 1979) | |
| No. 32--Guest Passenger Legislation (April 1979) | Proclamation 5 July 1979 of previously enacted S.A. 1977, c. 76, s. 6 to come into force 1 September 1979 (now Insurance Act, R.S.A. 1980, c. I-5, s. 310) (This is not the principal recommendation of the Report.) |
| No. 33--Inter-Spousal Tort Immunity (April 1979) | |

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| No. 34--Service of Documents During Postal Interruptions (June 1979) | S.A. 1980, c. 88 (now Judicature Act, R.S.A. 1980, c. J-1, ss. 33-37) |
| No. 35--Defamation: Fair Comment and Letters to the Editor (October 1979) | S.A. 1980, c. 11 amending the Defamation Act, R.S.A. 1970, c. 87 (now R.S.A. 1980, c. D-6, s. 9) |
| No. 36--Proposals for a New Alberta Business Corporations Act (August 1980), 2 vols. | Business Corporations Act, S.A. 1981, c. B-15. |
| No. 37A--The Uniform Evidence Act 1981: A Basis for Uniform Evidence Legislation (June 1982) | |
| No. 37B--Evidence and Related Subjects: Specific Proposals for Alberta Legislation (June 1982) | |
| No. 38--The Uniform Sale of Goods Act (October 1982) | |
| No. 39--Defences to Provincial Charges (March 1984) | |
| No. 40--Judicial Review of Administrative Action: Application for Judicial Review (March 1984) | |
| No. 41--Compensation for Security Interests in Expropriated Land (May 1984) | |
| No. 42--Debt Collection Practices (June 1984) | |

## APPENDIX D

## OTHER PUBLICATIONS

### Annual Reports

Five Year Report 1968-1973
Annual Report 1973-1974
Annual Report 1974-1975
Annual Report 1975-1976
Annual Report 1976-1977
Annual Report 1977-1978
Annual Report 1978-1979
Annual Report 1979-1980
Annual Report 1980-1981
Annual Report 1981-1982
Annual Report 1982-1983

### Reports for Discussion

No. 1--Protection of Trade Secrets (February 1984)

### Research Reports

No. 1--Rent Control; Security of Tenures (November 1975)
No. 2--Entry of Landlord; Locks and Security Devices (November 1975)
No. 3--Obligation to Repair; Security Deposits (November 1975)
No. 4--Termination Procedures; Failure of Tenants to Pay Rent; Overholding Tenants (November 1975)
No. 6--Resolution of Disputes; Landlord and Tenant (Advisory) Boards; Distress (November 1975)
No. 7--Contract or Property Law; Form and Delivery of Lease; Right to Assign or Sublet (November 1975)
No. 8--Mobile Homes (November 1975)
No. 9--Consent of Minors to Medical Treatment (May 1975)
No. 10--Illegitimacy (June 1974)
No. 11--Administration of Family Law: The Unified Family Court: Constitutional Opinions (May 1978)
No. 12--Statute of Frauds (May 1979)
No. 13--Matrimonial Support Failures: Reasons, Profiles, and Perceptions of Individuals Involved (Canadian Institute for Research in the Behavioral and Social Sciences: May 1981)
No. 14--Conference Materials, International Invitational Conference on Matrimonial and Child Support, 27-30 May 1981 (October 1982)

### Books

Sir Victor Windeyer, Some Aspects of Australian Constitutional Law (1972)

Thomas W. Mapp, Torrens' Elusive Title: Basic Legal Principles of an Efficient Torrens' System (1978) (Alta. L.R. Book Series, v. 1)

The Alberta Limitations Manual, Butterworth & Co. (Western Canada) Ltd., 1979. (Although not prepared by the Institute, the Manual was based upon a list of statutory limitation periods in Alberta originally prepared by members of the Institute's legal staff.)

Olive M. Stone, The Child's Voice in the Court of Law, Butterworth & Co. (Canada) Ltd., 1982. (Dr. Stone's book is based on work done for the Institute while she was employed full-time as consultant on our Family Law Project)